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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/787,396 | 03/19/2001 | Peter Holscher | SCH 1706 | 2405 |

23599 7590 11/30/2001

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EXAMINER

FORD, JOHN M

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

1624

DATE MAILED: 11/30/2001

5

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/287346

Applicant(s)

Holscher et al

Examiner

J M Ford

Group Art Unit

1624

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE ONE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☐ Responsive to communication(s) filed on _____.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-15 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☐ Claim(s) _____ is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☒ Claim(s) 1-15 are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____.
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of References Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

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The claims in the application are claims 1--15.

This application has been found to contain more than one invention. Therefore, restriction to one of the following distinct inventions is required.

Restriction in 371 applications is controlled by 37 CFR 1.475. 37 CFR 1.475 provides for the examination of one product, one process of making that product and one process of using that elected product.

- (I) The instances of claim 1 where X is O, the oxazines.
- (II) The instances in claim 1 where X is S(O)m, the thiazines.
- (III) The instance in claim 1 where X is Se, the selinazines.

Claims 2--10 join the above to the extent they read on the elected invention.

- (IV) Non-statutory claims 11--13.
- (V) Claim 14 multiple processes
- (VI) Claim 15 apparently a starting material. If claim 15 is elected, an election to a

specific value of X is required.

Note 37 CFR 1.475(e): the determination of lack of unity of invention is made without regard as to whether the respective inventions are in one claim or more than one claim.

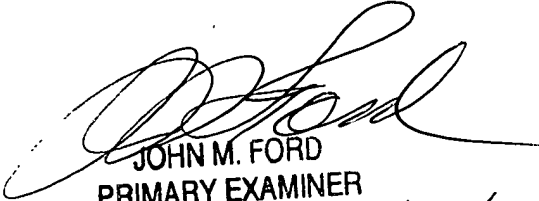
The determination is made on the basis of independent and distinct invention, that is, that a reference for one would not be a reference for the other(s), the compounds as grouped, will stand on their on, as independent and distinct separate patents.

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Applicants' response must include a provisional election, see 37 CFR 1.499, even if the requirement be traversed.

J. Ford:jmr

Nov. 29, 2001


JOHN M. FORD
PRIMARY EXAMINER
GROUP - ART UNIT 1624